

109TH CONGRESS
1ST SESSION

S. 735

To amend the Submerged Lands Act to make the seaward boundaries of the States of Louisiana, Alabama, and Mississippi equivalent to the seaward boundaries of the State of Texas and the Gulf Coast of Florida.

IN THE SENATE OF THE UNITED STATES

APRIL 6, 2005

Mr. VITTER introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Submerged Lands Act to make the seaward boundaries of the States of Louisiana, Alabama, and Mississippi equivalent to the seaward boundaries of the State of Texas and the Gulf Coast of Florida.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Offshore Fairness Act
5 of 2005”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are—

1 (1) to provide equity to the States of Louisiana,
2 Mississippi, and Alabama with respect to the sea-
3 ward boundaries of the States in the Gulf of Mexico
4 by extending the seaward boundaries from 3 geo-
5 graphical miles to 3 marine leagues if the State
6 meets certain conditions not later than 5 years after
7 the date of enactment of this Act;

8 (2) to convey to the States of Louisiana, Mis-
9 sissippi, and Alabama the interest of the United
10 States in the submerged land of the outer Conti-
11 nental Shelf that is located in the extended seaward
12 boundaries of the States;

13 (3) to provide that any mineral leases, ease-
14 ments, rights-of-use, and rights-of-way issued by the
15 Secretary of the Interior with respect to the sub-
16 merged land to be conveyed shall remain in full force
17 and effect; and

18 (4) in conveying the submerged land, to ensure
19 that the rights of lessees, operators, and holders of
20 easements, rights-of-use, and rights-of-way on the
21 submerged land are protected.

22 **SEC. 3. SEAWARD BOUNDARY EXTENSION.**

23 (a) IN GENERAL.—Title II of the Submerged Lands
24 Act (43 U.S.C. 1311 et seq.) is amended—

1 (1) by redesignating section 11 as section 12;
 2 and

3 (2) by inserting after section 10 the following:

4 **“SEC. 11. EXTENSION OF SEAWARD BOUNDARIES OF THE**
 5 **STATES OF LOUISIANA, MISSISSIPPI, AND**
 6 **ALABAMA.**

7 “(a) DEFINITIONS.—In this section:

8 “(1) EXISTING INTEREST.—The term ‘existing
 9 interest’ means any lease, easement, right-of-use, or
 10 right-of-way on, or for any natural resource or min-
 11 erals underlying, the expanded submerged land that
 12 is in existence on the date of the conveyance of the
 13 expanded submerged land to the State under sub-
 14 section (b)(1).

15 “(2) EXPANDED SEAWARD BOUNDARY.—The
 16 term ‘expanded seaward boundary’ means the sea-
 17 ward boundary of the State that is 3 marine leagues
 18 seaward of the coast line of the State as of the day
 19 before the date of enactment of this section.

20 “(3) EXPANDED SUBMERGED LAND.—The term
 21 ‘expanded submerged land’ means the area of the
 22 outer Continental Shelf that is located between 3
 23 geographical miles and 3 marine leagues seaward of
 24 the coast line of the State as of the day before the
 25 date of enactment of this section.

1 “(4) INTEREST OWNER.—The term ‘interest
2 owner’ means any person that owns or holds an ex-
3 isting interest in the expanded submerged land or
4 portion of an existing interest in the expanded sub-
5 merged land.

6 “(5) SECRETARY.—The term ‘Secretary’ means
7 the Secretary of the Interior.

8 “(6) STATE.—The term ‘State’ means each of
9 the States of Louisiana, Mississippi, and Alabama.

10 “(b) CONVEYANCE OF EXPANDED SUBMERGED
11 LAND.—

12 “(1) IN GENERAL.—If a State demonstrates to
13 the satisfaction of the Secretary that the conditions
14 described in paragraph (2) will be met, the Secretary
15 shall, subject to valid existing rights and subsection
16 (c), convey to the State the interest of the United
17 States in the expanded submerged land of the State.

18 “(2) CONDITIONS.—A conveyance under para-
19 graph (1) shall be subject to the condition that—

20 “(A) on conveyance of the interest of the
21 United States in the expanded submerged land
22 to the State under paragraph (1)—

23 “(i) the Governor of the State (or a
24 delegate of the Governor) shall exercise the
25 powers and duties of the Secretary under

1 the terms of any existing interest, subject
2 to the requirement that the State and the
3 officers of the State may not exercise the
4 powers to impose any burden or require-
5 ment on any interest owner that is more
6 onerous or strict than the burdens or re-
7 quirements imposed under applicable Fed-
8 eral law (including regulations) on owners
9 or holders of the same type of lease, ease-
10 ment, right-of-use, or right-of-way on the
11 outer Continental Shelf seaward of the ex-
12 panded submerged land; and

13 “(ii) the State shall not impose any
14 administrative or judicial penalty or sanc-
15 tion on any interest owner that is more se-
16 vere than the penalty or sanction under
17 Federal law (including regulations) appli-
18 cable to owners or holders of leases, ease-
19 ments, rights-of-use, or rights-of-way on
20 the outer Continental Shelf seaward of the
21 expanded submerged lands for the same
22 act, omission, or violation;

23 “(B) not later than 5 years after the date
24 of enactment of this section—

1 “(i) the State shall enact laws or pro-
2 mulgate regulations with respect to the en-
3 vironmental protection, safety, and oper-
4 ations of any platform pipeline in existence
5 on the date of conveyance to the State
6 under paragraph (1) that is affixed to or
7 above the expanded submerged land that
8 impose the same requirements as Federal
9 law (including regulations) applicable to a
10 platform pipeline on the outer Continental
11 Shelf seaward of the expanded submerged
12 land; and

13 “(ii) the State shall enact laws or pro-
14 mulgate regulations for determining the
15 value of oil, gas, or other mineral produc-
16 tion from existing interests for royalty pur-
17 poses that establish the same requirements
18 as the requirements under Federal law (in-
19 cluding regulations) applicable to Federal
20 leases for the same minerals on the outer
21 Continental Shelf seaward of the expanded
22 submerged land; and

23 “(C) the State laws and regulations en-
24 acted or promulgated under subparagraph (B)
25 shall provide that if Federal law (including reg-

ulations) applicable to leases, easements, rights-of-use, or rights-of-way on the outer Continental Shelf seaward of the expanded submerged land are modified after the date on which the State laws and regulations are enacted or promulgated, the State laws and regulations applicable to existing interests will be modified to reflect the change in Federal laws (including regulations).

“(c) EXCEPTIONS.—

“(1) MINERAL LEASE OR UNIT DIVIDED.—

“(A) IN GENERAL.—If any existing Federal oil and gas or other mineral lease or unit would be divided by the expanded seaward boundary of a State, the interest of the United States in the leased minerals underlying the portion of the lease or unit that lies within the expanded submerged boundary shall not be considered to be conveyed to the State until the date on which the lease or unit expires or is relinquished by the United States.

“(B) APPLICABILITY FOR OTHER PURPOSES.—Notwithstanding subparagraph (A), the expanded seaward boundary of a State shall be the seaward boundary of the State for all

1 other purposes, including the distribution of
 2 revenues under section 8(g)(2) of the Outer
 3 Continental Shelf Lands Act (43 U.S.C.
 4 1337(g)(2)).

5 “(2) LAWS AND REGULATIONS NOT SUFFI-
 6 CIENT.—If the Secretary determines that any law or
 7 regulation enacted or promulgated by a State under
 8 subparagraph (B) of subsection (b)(2) does not meet
 9 the requirements of that subparagraph, the Sec-
 10 retary shall not convey the expanded submerged land
 11 to the State.

12 “(d) INTEREST ISSUED OR GRANTED BY THE
 13 STATE.—This section does not apply to any interest in
 14 the expanded submerged land that a State issues or grants
 15 after the date of conveyance of the expanded submerged
 16 land to the State under subsection (b)(1).

17 “(e) LIABILITY.—

18 “(1) IN GENERAL.—By accepting conveyance of
 19 the expanded submerged land, the State agrees to
 20 indemnify the United States for any liability to any
 21 interest owner for the taking of any property inter-
 22 est or breach of contract from—

23 “(A) the conveyance of the expanded sub-
 24 merged land to the State; or

1 “(B) the State’s administration of any ex-
 2 isting interest under subsection (b)(2)(A)(i).

3 “(2) DEDUCTION FROM OIL AND GAS LEASING
 4 REVENUES.—The Secretary may deduct from the
 5 amounts otherwise payable to the State under sec-
 6 tion 8(g)(2) of the Outer Continental Shelf Lands
 7 Act (43 U.S.C. 1337(g)(2)) the amount of any final
 8 nonappealable judgment for a taking or breach of
 9 contract described in paragraph (1).”.

10 (b) CONFORMING AMENDMENT.—Section 2(b) of the
 11 Submerged Lands Act (43 U.S.C. 1301(b)) is amended
 12 by striking “section 4 hereof” and inserting “section 4 or
 13 11”.

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